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**BEFORE THE
FEDERAL MARITIME COMMISSION**

FILED

DOCKET NO. 15-11

AUG 31 2016

IGOR OVCHINNIKOV, IRINA RZAEVA, and DENIS NEKIPELOV, Administrative Secretary

— vs. —

**MICHAEL HITRINOV a/k/a
MICHAEL KHITRINOV,
EMPIRE UNITED LINES CO., INC., and CARCONT, LTD.**

INFORMAL DOCKET NO.: 1953(I)

KAIRAT NURGAZINOV,

— vs. —

**MICHAEL HITRINOV a/k/a
MICHAEL KHITRINOV,
EMPIRE UNITED LINES CO., INC., and CARCONT, LTD.**

**COMPLAINANTS' REPLY TO RESPONDENTS' RESPONSE TO COMPLAINANTS'
MOTION FOR LEAVE TO FILE A SUR-REPLY**

Pursuant to Rules 69 and 71 of the Federal Maritime Commission's (the "Commission") Rules of Practice and Procedure (46 C.F.R. 502 *et seq.*), Complainants, through their Counsel, Marcus A. Nussbaum, Esq., respectfully submit this brief in Reply to Respondents' Response to Complainants' Motion for Leave to File a Sur-Reply.

In the first instance, we note the patently absurd argument of Mr. Jeffrey, who has abysmally failed to meet the so-called "condition precedent" of conferring with an adversary with regard to each and every one of respondents' endless and frivolous submissions, to wit: that complainants allegedly failed to satisfy said "condition precedent". Succinctly stated, "what is

good for the goose is good for the gander", even when dealing with a jackass.

With regard to Mr. Jeffrey's contention that complainants' instant motion is "extraordinarily tardy", we note that apart from "the law according to Jeffrey", Mr. Jeffrey references neither any applicable Rule, nor proffers any case law setting forth time limitations within which a party may request leave to interpose a sur-reply, whereas in the case at bar, *all* conditions precedent have been met.

As to Mr. Jeffrey's bombastic pronouncement that complainants "...had ample opportunity to address these matters", aside from its insufferable pomposity we note, that despite obvious delusions to the contrary, Mr. Jeffrey neither wears the robe nor bears the mantle of the Presiding Officer in this matter within whose province this issue properly resides. Indeed, it is up to the Presiding Officer to decide whether leave for the filing of a sur-reply should be granted, and *not* Mr. Jeffrey. Complainants further reject Mr. Jeffrey's heavy handed attempt to cast the issue of his continuing gross violations of the Rules of Practice and Procedure of the Commission; this despite his constant lecturing on what he believes to be proper application of said Rules. Specifically, it is respectfully submitted that Mr. Jeffrey, having admittedly filed documents for the first time within a purported Reply on respondents' pending Motion for Judgment on the Pleadings, cannot now reasonably be heard to decry complainants' absolute right to interpose a sur-reply to documents provided, and arguments made thereon which Mr. Jeffrey carelessly failed to include in his original ill-founded motion. Certainly, such failure cannot be cured by attempting to "backdoor" said documents to the Presiding Officer absent any demonstration of good cause shown as to why said documents were not included with respondents' original motion papers; or in the alternative, complainants' right to respond to same, as "trial by ambush" has long since been abolished despite Mr. Jeffrey's obvious and apparent attempt to revive a long dead and reviled

method of practice.

As to Mr. Jeffrey's final "argument" (if it can fairly be characterized as such) complainants, both in their pending Motion for Leave to File a Sur-Reply, and in the ensuing sur-reply upon leave being granted by the Presiding Officer to interpose same, have, had, and will direct all arguments to respondents' purported Reply and the 'new evidence' set forth for the first time in said Reply, having been carelessly (or intentionally) omitted from respondents' original motion papers. As prior and continuing experience with Mr. Jeffrey's methods of practice strongly suggest the latter, complainants again respectfully urge the Presiding Officer to grant complainants leave to interpose a sur-reply hereon.

Complainants' counsel will not dignify by response Mr. Jeffrey having questioned the veracity of recent personal travel by complainants' counsel, as same is grossly and palpably irrelevant to the instant motion, respondents' underlying motion to which the instant application is made upon, or any other aspect of this litigation; rather, the foregoing constitutes an obvious attempt by Mr. Jeffrey, himself, an "inveterate liar" to prejudice the Presiding Officer against complainants' counsel and obfuscate the issues in both the instant relief requested by complainants, and Mr. Jeffrey's continuing violations of the Rules of Practice and Procedure of the Commission.

In closing, complainants note the patent absurdity of Mr. Jeffrey attempting to argue that the documents at issue are allegedly "meaningless", in that he apparently held said documents in high enough regard to initially secrete them from his initial motion in an obvious attempt to prevent complainants from responding to same, only to then improperly proffer said documents for the first time in respondents' purported Reply on their instant ill-founded motion.

Finally, and with regard to Mr. Jeffrey's bizarre reference to non-party Kapustin who has

bombarded the Presiding Officer with maniacal filings obviously and overtly offered by Mr. Jeffrey, complainants state the obvious in noting that the specter of the liar, cheat, fraud, and master criminal Kapustin (whom the Presiding Officer now knows may be the subject of a bench warrant issued by a Federal Judge) has no bearing or semblance whatsoever to either complainants' instant requested relief, or respondents' underlying motion, rather, Mr. Jeffrey continues to attempt to use his collusion and alliance with Kapustin as a sword against complainants herein, despite gross irrelevance to the motions at bar. Complainants further note and join with Mr. Jeffrey's representation of non-party, Kapustin being a "liar", upon the theory that "it takes one to know one", and that as the obvious ghost writer of Kapustin's filings, Mr. Jeffrey and Kapustin know each other quite well.

WHEREFORE, and based upon the arguments set forth above together with those contained in complainants' prior submissions, the Presiding Officer is respectfully urged to grant complainants leave to interpose a sur-reply to respondents' Motion for Judgment on the Pleadings, together with such other and further relief as the Presiding Officer may deem just and proper under the circumstances.

Respectfully submitted,

Dated: August 31, 2016
Brooklyn, New York

A handwritten signature in black ink, appearing to read 'Marcus A. Nussbaum', with a long, sweeping horizontal line extending to the right.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the attached **COMPLAINANTS' REPLY TO RESPONDENTS' RESPONSE TO COMPLAINANTS' MOTION FOR LEAVE TO FILE A SUR-REPLY** upon Respondents' Counsel at the following address:

Nixon Peabody LLP
Attn: Eric C. Jeffrey, Esq.
799 9th Street NW, Suite 500
Washington, DC 20001-4501

by first class mail, postage prepaid, and by email (ejeffrey@nixonpeabody.com).

A handwritten signature in black ink, appearing to read "Marcus A. Nussbaum", is written over a horizontal line.

Marcus A. Nussbaum, Esq.
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marcus.nussbaum@gmail.com

Dated: August 31, 2016 in Brooklyn, New York.

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OFFICE OF THE SECRETARY
FEDERAL MARITIME COMMISSION

August 31, 2016

Federal Maritime Commission
800 North Capitol Street, N.W.
Washington, D.C. 20573
Attn: Office of the Secretary
Attn: Karen V. Gregory

Re: *Igor Ovchinnikov, et al, v. Michael Hitrinov a/k/a Michael Khitrinov, et al.*
FMC Docket 15-11

Kairat Nurgazinov, v. Michael Hitrinov a/k/a Michael Khitrinov, et al.
FMC Informal Docket 1953(I)

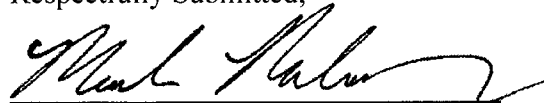
Dear Ms. Gregory:

I represent the Complainants in the above referenced matters.

Attached, please find an original and five copies of Complainants' Reply to Respondents' Response to Complainants' Motion for Leave to File a Sur-Reply. Respondents have been additionally served herein via First Class Mail.

We thank the Commission for its continued courtesy and consideration.

Respectfully Submitted,



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